

Express Mail Label No.

Dated: \_\_\_\_\_

Docket No.: 03042/000G956-US0  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
James D. Marks

Application No.: 09/556,945

Art Unit: 3626

Filed: April 21, 2000

Examiner: Robert W. Morgan

For: SYSTEM AND METHOD FOR  
RECRUITMENT OF CANDIDATES FOR  
CLINICAL TRIALS WHILE MAINTAINING  
SECURITY

**DECLARATION OF CHRISTOPHER ANDREWS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

I, Christopher Andrews, hereby declare and state as follows:

1. I am a citizen of the United States and am more than twenty-one years of age.
2. From February 5, 2007 to October 26, 2007, I have been employed by Kroll Ontrack Inc. ("Kroll") of Eden Prairie, Minnesota as a Computer Forensics Specialist. My duties have included conducting sound computer forensic analysis and maintaining strict media chain of custody using protocols and procedures in line with generally accepted computer forensic techniques and best practices, acquiring and preserving computer media in lab settings and onsite data capture or seizure, performing data recovery, including both file and email recovery, on electronic media to be analyzed during the course of a computer forensic investigation, conduct

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investigations involving analysis of electronic media including, but not limited to, fraud and financial crimes, theft of trade secrets, and destruction of evidence, and provide expert testimony as needed.

3. The following paragraphs describe work that was completed by me, along with individuals working on my behalf and under my supervision and control. The work was completed in the United States.

4. I received two Imation tape cartridges on September 29, 2007 which were shipped to Kroll with FedEx tracking number 860666470391. Upon information and belief, the Imation tape cartridges were shipped to Kroll by Mr. James D. Marks of Body Health Resources Corporation ("BHRC") of New York, New York.

5. Each of the two Imation tape cartridges was received by Kroll Ontrack employee Michael Paal with post-it label providing identification.

6. A first cartridge ("A01") was marked as "Tinman Backup 2", with the following dates provided and crossed out: "4/20/99," "5/3/99," "5/17/99," "6/1/99," "6/14/99," "6/28/99," "8/5/99," "8/19/99," "9/3/99," "9/17/99," "9/30/99," "10/13/99," "11/1/99." The following date was also provided and not crossed out: "11/17/99." I further labeled this tape as "A01."

7. The second cartridge ("A02") was marked "Tinman Off-Site Backup 6/30/99 for Jamie." I further labeled this tape as "A02."

8. I examined the tapes in the Kroll Computer Forensics lab in Eden Prairie, MN, using proprietary Kroll Ontrack software as well as EnCase (Guidance Software), to transfer and view the files which were recorded on A01 and A02. The procedures that I employed to transfer and view the files which were recorded on A01 and A02 can be summarized as follows:

The data from both tapes (A01 and A02) was copied, bit-for-bit, to the Kroll Ontrack servers on October 5, 2007 by Kroll Ontrack employee Jae Hange.

The A01 media contains 150 unreadable files and the A02 media contains 127 unreadable files. The copied data was protected as 'read-only' to avoid alteration of file system metadata where possible. The copied data was loaded into EnCase for further analysis. EnCase allows the user to view all data associated with a file including all file system and other metadata as well as deleted data and other unused data areas on a piece of media. In this matter the tapes contain only active (non-deleted) data. I created an Active File Listing report corresponding to each original tape, consisting of metadata such as the File Name, Description, Last Accessed Date, Created Date, Last Written Date, Size, and Path (location). I then performed a detailed keyword search for files named "Health\_survey.html", and "Health\_survey1.html".

9. I found files labeled as follows on A01:

[http://www.thebody.com/surveys/health\\_survey.html](http://www.thebody.com/surveys/health_survey.html),  
[http://www.thebody.com/surveys/health\\_survey1.html](http://www.thebody.com/surveys/health_survey1.html).

10. I found files labeled as follows on A02:

[http://www.thebody.com/surveys/health\\_survey.html](http://www.thebody.com/surveys/health_survey.html),  
[http://www.thebody.com/surveys/health\\_survey1.html](http://www.thebody.com/surveys/health_survey1.html).

11. I found all file system metadata on both tapes to be preserved and intact. Using the procedures summarized above in paragraph 8, I confirmed that the file system metadata states the date on which the files were created and, assuming the system clock was accurate on the machine that copied the original data to the tapes, confirmed that all four files identified in paragraphs 9 and 10 were created on May 24, 1999.

12. Using the procedures summarized above in paragraph 8, I was able to view the contents of each of the four files identified in paragraphs 9 and 10. I confirmed that health\_survey.html as it appears on each backup tape (A01, A02) contains the text, "Please remove my name as a volunteer," into which is coded a hypertext link to the following page:  
[http://www.thebody.com/surveys/health\\_remove.ihtml](http://www.thebody.com/surveys/health_remove.ihtml). I also confirmed that health\_survey1.html as

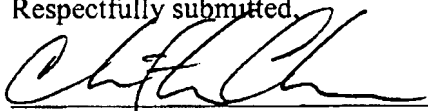
it appears on each backup tape (A01, A02) contains the text, "This release shall be effective for a perpetual duration, but you may subsequently request that *The Body* no longer provide information to clinical researchers," and into the underlined portion is coded a hypertext link to the following page: [http://www.thebody.com/surveys/health\\_remove.ihtml](http://www.thebody.com/surveys/health_remove.ihtml)

13. Attached as Exhibits A and B are listings from the preserved metadata files on each backup tape A01, A02, respectively, limited to the files identified in paragraphs 9 and 10. Attached as Exhibits C-F are true hard copy printouts of the HTML source code of each of the four files identified in paragraphs 9 and 10, viewed through Microsoft Internet Explorer 7. Attached as Exhibits G-J are true hardcopy printouts of the data viewed through Microsoft Internet Explorer 7 contained in the four files identified in paragraphs 9 and 10. Each of Exhibits A - J are further marked to identify the backup tape which was the source of the exhibit.

14. I further declare that all statements made herein are of my own knowledge and are true, and that all statements made on information and belief are believed to be true. I further declare that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States code, and that such willful false statements may jeopardize the validity of the instant application or of any patent issued thereupon.

Dated: October 30, 2007

Respectfully submitted,

  
Christopher Andrews

Attachments:

Exhibits A - B: Hardcopies of the metadata file listings from A01 and A02 as pertaining to the four files identified in paragraphs 9 and 10.

Exhibits C-F: Hardcopies of the four files identified in paragraphs 9 and 10, opened in Microsoft Internet Explorer 7 using "view source".

Exhibits G-J: Hardcopies of the four files identified in paragraphs 9 and 10, opened in Microsoft Internet Explorer 7.